

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2006

Coram :

THE HONOURABLE MR.JUSTICE P.D.DINAKARAN

AND

THE HONOURABLE MR.JUSTICE P.P.S.JANARTHANA RAJA

Tax Case (Appeal) Nos.51 & 52 of 2006

M.Sundaram

..Appellant

Vs

The Assistant Commissioner of Income Tax,
Central Circle II,
Coimbatore.

..Respondent

Appeals under Section 260A of the Income Tax Act, 1961 against the order of the Income Tax Appellate Tribunal, Madras, 'D' Bench in I.T.A. Nos.1579 & 1580(Mds)/96 for the assessment years 1991-92 and 1992-93 against the order dated 10.6.1996 and made in IT Appeal Nos.313-C & 314-C/96-97 on the file of the Commissioner of Income-Tax (Appeals) Coimbatore against PAN/GIR.No.S-702/Cent.Cir.II/CBE dated 29.3.1996 for the Assessment years 1991-92 & 1992-93 on the file of The Assistant Commissioner of Income Tax, Central Circle-II, Coimbatore.

For Appellant : Mr.J.Balachandar for Mr.S.Sridhar

JUDGMENT

(Judgment of the Court was delivered by P.P.S.Janarthana Raja, J.)

The present appeals are filed under Section 260A of the Income Tax Act, 1961 by the assessee against the order passed in I.T.A. Nos.1579 & 1580(Mds)/96 by the Income Tax Appellate Tribunal, Madras, 'D' Bench raising the following substantial questions of law.

"1. Whether the Tribunal is correct in confirming the addition made in the respective assessment years invoking Section 69A of the Act in the re-opened assessments?

2. Whether the Tribunal is correct in concluding that the Appellant had not discharged his burden in order to establish on the fact of the ownership of the monies deposited in his bank accounts in spite of the sworn statements recorded on oath from the Appellant and other cogent reasons placed on record in support of his stand?"

2. The facts leading to the above questions of law are as under:

The relevant assessment years are 1991-92 and 1992-93. The assessee filed Return of income declaring salary from M/s.United Bleachers Limited, Mettupalayam and M/s.Sree Kanniamman Cotton Textiles (Pvt.) Ltd., Avanashi besides interest income from bank deposits. On the basis of the news published in the newspapers on 23.8.91, the Income Tax authorities conducted a search operation at Canara Bank and State Bank of India, Avanashi. The Revenue found a sum of Rs.2,04,27,106/- credited at various branches of State Bank of India and Central Cooperative Bank in the name of the assessee. The assessee explained that the above said amount belonged to one Mr.Verma and one Mr.Jain who came for bleaching work to M/s.United Bleachers Limited. However, the assessee could not provide the address and other details of the said Mr.Verma and Mr.Jain. Therefore, the Assessing Officer added the entire amount as unexplained money under Section 69A of the Income Tax Act to the total income of the assessee. The first appellate authority had confirmed the order of the Assessing Officer. Aggrieved by the order, the assessee filed an appeal to the Income Tax Appellate Tribunal. The Income Tax Appellate Tribunal dismissed the appeal and confirmed the order of the lower authorities.

3. We heard the counsel appearing for the assessee. Admittedly, a sum of Rs.2,04,27,106/- was credited in six bank accounts maintained by the assessee at State Bank of India, Avanashi, Central Cooperative Bank, Avanashi and Primary Agricultural Co-operative Bank, Mettupalayam. The assessee through his father Mr.Mariappa Goundar withdrew all the money just prior to the date of raid. Therefore, the assessee could have explained before the Assessing Officer to whom the money was paid after the same was withdrawn from the banks. The only claim by the assessee before the Assessing Officer was that the entire money belonged to one Mr.Verma and Mr.Jain of Ahmedabad. According to the assessee, the above said two persons came for bleaching work to M/s.United Bleachers Limited. When the assessee claims that Mr.Verma and Mr.Jain, who came for bleaching work to M/s.United Bleachers Limited, handed over the huge sum of money for safe custody, he might have known the address, telephone number and other particulars. No businessman will receive a sum of Rs.2 Crores without knowing the identity and address. When the assessee claimed that he did not know the address of Mr.Verma and Mr.Jain, it was obvious that the assessee wanted to suppress something from the knowledge of the Assessing Officer. The admitted facts were that the entire sum was credited in the bank accounts of the assessee by cash and the assessee through his authorised representative, Mr.Mariappa Goundar, who is none other than the father of the assessee, withdrew the entire money from the banks just prior to the date of the raid. It is clear that the entire

money was in possession of the assessee. The assessee is receiving a small amount as salary. The assessee was not disclosing the true picture of how he came into possession of such huge amount. Since the entire amount was deposited in the assessee's accounts and the assessee was not prepared to disclose the source of its receipt, the natural presumption would be that the assessee was the owner of the entire money. It was, for the assessee, to prove that the money did not belong to him. The assessee failed to prove that the money does not belong to him and hence, the authorities were right in assessing under Section 69A of the Income Tax Act.

4. In view of the foregoing conclusions, we find no error in the order of the Income Tax Appellate Tribunal and requires no interference. Hence no substantial questions of law arise for consideration of this Court. Accordingly, the above tax case is dismissed. Consequently the connected TCMP No.45 of 2006 is closed. No costs.

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Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Assistant Registrar,
Income Tax Appellate Tribunal,
Rajaji Bhavan, Besant Nagar, Chennai-90.

2. The Assistant Commissioner of Income Tax,
Central Circle II,
Coimbatore.

3. The Commissioner of Income-Tax (Appeals),
Coimbatore.

1 cc To Mr.S.Sridhar, Advocate, SR.6184.

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of 2006

GM(CO)
RVL 03.03.2006